

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NANCY GILL,

Plaintiff,

VS.

MICHAEL MAGAN, MICHAEL GONZALEZ, ) (Jury Trial Demanded)  
TIMOTHY RENIHAN, CITY OF SEATTLE, )

Defendants.

# INTRODUCTION

1. This is an action for damages against City of Seattle and three of its agents, Michael Magan, Michael Gonzalez, and Timothy Renihan.

## JURISDICTION

2. The jurisdiction of this Court over this Amended Complaint is invoked pursuant to the provisions of 28 U.S.C. §§ 1331 and 1343(a)(1), (2), (3), and (4) for plaintiff's federal constitutional claims, which derive from the provisions of 42 U.S.C §§ 1983 and 1988 and the Constitution of the United States, specifically the Fourth and Fourteenth Amendments thereto.

## VENUE

## PARTIES

8. Defendant Timothy Renihan is now, and at all times relevant to this complaint, was a detective at the Seattle Police Department in doing the things herein alleged, was acting under color of law and within the course and scope of his employment by defendant City of Seattle.

1           9. Defendant City of Seattle, Washington is now, and at all time mentioned herein  
2 was, a governmental entity and a political subdivision of the State of Washington, duly organized  
3 and existing under the State of Washington.

4           10. Each defendant is, and at all times herein was, an agent of the other and acting  
5 within the course and scope of that agency in causing the harm as herein alleged.

#### 6                                   **ADMINISTRATIVE PROCEEDINGS**

7           11. Within the statutory time period, specifically on February 1, 2019, plaintiff filed  
8 claims, arising out of the events alleged herein, against the City of Seattle and Snohomish  
9 County. More than 60 days have passed and neither the City of Seattle nor Snohomish County  
10 has responded. The torts claims were rejected as a matter of law.

#### 11                                   **FACTUAL BACKGROUND**

12           12. At some point Steven Fisher owned a house located at 3 119<sup>th</sup> Dr. SE Ave in Lake  
13 Stevens, Washington.

14           13. On January 25, 2017, the Red Sea Financial Center located at 2301 S. Jackson  
15 Street was robbed by a white male who posed as an FBI agent and who had a fake search  
16 warrant. Initially the Seattle Police had no suspects.

17           14. It was sold and the new owner, Evolve 119<sup>th</sup> LLC, flipped the house. The newly  
18 renovated house was and still is advertised on many housing sites, including Zillow. Plaintiff  
19 Nancy Gill purchased the newly renovated house on May 18, 2017.

20           15. On July 19, 2017, two months after purchasing the home, Gill's daughter Bridget  
21 mentioned that she noticed someone watching the house from a silver car.

22           16. On Wednesday, July 26, 2017 another establishment was approached  
23 telephonically by a man pretending to be an FBI agent and asking to remove all of the cash from

1 the business because the business was about to be robbed. The operator of the business  
2 immediately calls 911 and reports the incident.

3 17. On August 19, 2017, Mr. Fisher was arrested for allegedly posing as an FBI  
4 agent. Mr. Fisher was thought to have previously impersonated FBI agents in order to rob banks  
5 and various businesses. He was brought into King County Jail that day.

6 18. On August 21, 2017 at 11:00 defendants Magan and Reniham met to discuss the  
7 robbery at the Red Sea Financial Center that occurred on January 25, 2017 and the suspicion that  
8 Steven Fisher was the man who committed the robbery.

9 19. On August 21, 2017 at 11:30 Steven Fisher is brought from the jail and brought  
10 down to the Intake and Release desk. He is met there by Defendant Magan who walks him to the  
11 robbery interview room. According to a report filed by Magan, Mr. Fisher told him that he grew  
12 up in Kirkland and he is currently staying with his mother at a new address in Lake Stevens  
13 Washington and Fisher said his license on his driver's license was current.

14 20. Also, at 11:30, defendant Renihan claims he conducted Law Enforcement records  
15 checks of S/Fisher. using DAPS, LINX, Accurant and SFD and DAPS showed an update on his  
16 vehicle 2-22-17 for the address 3-119 Dr. SE Lake Stevens, WA; Linx showed a 2006 Sno  
17 Country driving incident and Accurant showed an address of 3-119 Dr SE, Lake Stevens from  
18 2003 to 2017. 3 119<sup>th</sup> Dr. Se Lake Stevens, clearly was an old address and was not the new  
19 address of his mother's home referred to earlier.

20 21. On August 21, 2017 at approximately 12:10, Detectives Magan and Cobane  
21 interviewed Steven Fisher at the Seattle Police Station. During the interview, Mr. Fisher said he  
22 did not work and that he had been living with his folks for the past few months. He was never  
23 asked what that address was. Neither detective asked Mr. Fisher what his parents' names were or

1 where they lived and Steven. It was obvious to both detectives that Mr. Fisher was lying  
2 throughout the interview as was deflecting his own blameful conduct to others.

3 22. On August 21, 2017 at 1:09 p.m., after the interview with Fisher ended, defendant  
4 Renihan asked that Steven Fisher's phone calls be restricted so that he does not destroy evidence  
5 while the search warrant is pending. Outgoing calls by Fisher were then monitored and listened  
6 to by Renihan.

7 23. On August 21, 2017 at approximately 3:00 p.m. defendant Renihan began  
8 listening to calls made from jail by Fisher. At 6:00 p.m. Renihan listened to calls from Fisher's  
9 mother to him.

10 24. On August 21, 2017, at approximately 8:38 p.m., defendant Michael Magan  
11 applied via email for a search warrant to be signed by Judge Dean Lum of the King County  
12 Superior Court. The warrant authorized the officers to search of 3 119<sup>th</sup> Dr. SE for counterfeit  
13 law enforcement documents, any badges, logos or police equipment that could help someone  
14 impersonate an officer or agent. The warrant specifically mentioned the search of Fisher's car  
15 and residence. The affidavit for the warrant contained the following false information: "During a  
16 brief interview with Fisher, he admitted he lives with his mother at 3 119<sup>th</sup> Avenue Drive SE in  
17 Lake Stevens Washington. This is the same address on his driver's license and the same address  
18 he provided to King County Jail at booking." The warrant also omitted the fact that Fisher told  
19 detectives Cobane and Magan that he was staying with his folks at a new address. It omitted  
20 Magan's belief that Fisher was being deceptive during the interview or that detective Renihan  
21 had listened to Fisher's mother's call to Steven Fisher. The affidavit omitted the fact that  
22 Snohomish County property records showed that the 3 119<sup>th</sup> Drive SE was sold to plaintiff  
23

1 Nancy Gill in May of 2017. The application also failed to mention that Steven Fisher and Nancy  
2 Gill were only 9 years apart in age and Gill could not possibly be his mother.

3 25. The affidavit lacked any probable cause to believe that any evidence of the crime  
4 that occurred in January of 2017 of criminal impersonation would be found at the above  
5 referenced address in August of 2017.

6 26. Judge Lum reviewed the application and swore defendant Magan in and approved  
7 the search warrant via email at 8:55 p.m.

8 27. On August 21, 2017 at approximately between 9:15 and 9:45 p.m., Mr. Fisher's  
9 briefcase and car were searched and photographed by the Seattle Police Department.

10 28. On August 22, 2017 at 10:25 a.m. Renihan removed a house key from a key ring  
11 he found on the windshield of the Mini cooper automobile they had searched around 11:00 p.m.  
12 on August 21, 2017.

13 29. On August 22, 2017 at 10:40 a.m. Timothy Renihan received an email from U.S.  
14 Postal Inspector Jeremy Leder that said the post office confirmed Steven Fischer gets mail at  
15 some address in Lake Stevens, but it does not identify the address. They have the last name  
16 Fischer on the carrier's case for that address. There are no other names for that address.

17 30. On August 22, 2017 at 11:23 a.m., Renihan talked to the Manager at the Public  
18 Storage in Everett who stated that at 10:00 a.m. that morning, Margaret Zemak, mother of Steven  
19 Fisher was at the office stating that she wanted to get something out of Fisher's unit and then  
20 clear it out. The Manager said she had no authority to let Zemak in. It is unknown what Renihan  
21 did with this information. This information was either never revealed to Magan or it was ignored  
22 by him.  
23

1           31.     On August 22, 2017 at 12:00 p.m., the Seattle Robbery Unit Tactical team met  
2     detectives of the Robbery Unit to plan the method of entry and the type of search to be conducted  
3     of 3 119<sup>th</sup> Dr. SE Lake Stevens WA 98258

4           32.     On August 22, 2017 at 1:00 p.m., the Seattle Police Department Robbery Unit, the  
5     Snohomish County Sheriff and the FBI met at a predetermined location before caravanning to  
6     Gill's home. Gill's red Lexus was parked in the driveway of the house. Defendants Magan and  
7     Renihan were both present for this briefing.

8           33.     The officers banged on the front door, unsuccessfully attempted to use Fisher's  
9     key and then used a battering ram to break the door down. Other officers went to the side of the  
10    house and used bolt cutters to break the padlock on the gate to the backyard before breaking  
11    through the glass sliding door in Gill's backyard. The officer's entry to the front and back of  
12    Gill's home occurred at the same time.

13          34.     Gill was in the bathroom when the officers entered her house. Thinking she was  
14    being robbed, she immediately texted her daughter Bridget and her friend Deborah Oswald, to  
15    call 911. Bridget was without service and could not make a phone call. She texted her close  
16    friend, Mackenzie Hunnycut, to call 911. The 911 dispatch operator told Ms. Hunnycut that the  
17    police were already at Gill's house. Deborah Oswald called 911 as well.

18          35.     The officers immediately went to the attic to begin their search, despite not having  
19    cleared the house. The officers were wearing bullet proof vests and their guns were drawn.

20          36.     Defendant Michael Magan and/or Michael Gonzalez opened the door to the  
21    bathroom where Gill was hiding for safety. She immediately said, "I own this house" and told  
22    him the officer he was in the wrong house. Magan told Gill she was under arrest and would be  
23    taken in for questioning. He handcuffed her, sat her down in a chair, and immediately began

1 questioning her in the bedroom. No other officers where present in the room. Magan never asked  
2 for her identification.

3 37. Magan began asking a series of questions about the house. He never asked her if  
4 she owned the house or if she knew Mr. Fisher. The moment Gill realized that the search was  
5 connected to the bank robber who previously lived in her house, she told Magan that she was  
6 close friends with Eric Barden, the Police Commander of the Seattle Police Department Robbery  
7 Unit. He had sent her a text just that morning telling her he was going out of town and was  
8 unaware that the search was connected to Gill.

9 38. Magan and the rest of the officers got on the phone with Mr. Barden. After their  
10 conversation, the officers removed Gill's handcuffs, vacuumed the house and left. Nearly an  
11 hour had passed since the officers first entered Gill's home. Gill noticed that the silver car which  
12 was previously present near her house was present that day.

13 39. Two members from the Lake Stevens Fire Department arrived at Gill's house and  
14 nailed her front door shut. The front door and the rear sliding door suffered extensive damages.

15 40. Gill spent over six months repairing her new home, specifically fixing the front  
16 door, the rear sliding door, the bedroom closet and damage to the drywall and attic vents.

17 41. As a result of this incident and the emotional distress it caused, Gill was unable to  
18 work for six months and lost her job.

19 42. A few months prior to the incident, she underwent spinal fusion back surgery and  
20 was further harmed by being handcuffed behind her back. She now suffers from PTSD,  
21 nightmares, and anxiety induced by the trauma of being arrested at gunpoint.

## 22 **FIRST CLAIM FOR RELIEF**

### 23 **(Unlawful Entry and Search - 42 U.S.C. § 1983 - Violation of Fourth Amendment)**



43. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 42 with the same force and effect as if such paragraphs were separately realleged in this First Claim for Relief.

44. The actions of defendants Magan, Gonzalez, and Renihan in entering and searching plaintiff's residence without probable cause based on a warrant obtained by fraud and deception committed by Magan and Renihan violated each plaintiff Fourth Amendment rights to be free from such unlawful entries and searches in violation of 42 United States Code §1983. violated plaintiff's Fourth Amendment right to be free from unlawful entries and searches in violation of 42 U.S.C. § 1983.

45. As a direct and proximate result of defendants' acts, plaintiff had her home invaded by defendant officers and deputies and had her right to privacy disturbed all according to proof at trial.

46. As a direct and proximate result of defendants' conduct, plaintiff sustained economic and non-economic damages, including, without limitation mental suffering, embarrassment, emotional distress, emotional trauma, and other mental pain and suffering; and other damages, which will be proven at trial. The conduct of defendant officers, and each of them, was done in reckless and conscious disregard of the pain and suffering it was bound to inflict upon plaintiff for which an award of punitive damages is mandated against each individual defendant.

## **SECOND CLAIM FOR RELIEF**

### **(Unlawful Seizure, No Probable Cause**

### **42 U.S.C. § 1983: Violation of Fourth Amendment)**

1           47. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 46  
2 with the same force and effect as if such paragraphs were separately realleged in this Second  
3 Claim for Relief.

4           48. Plaintiff was seized without an arrest warrant and without probable cause.  
5 Defendants Magan and Gonzalez unlawfully arrested plaintiff and put her in handcuffs.

6           49. This unlawful seizure was done with the specific intent to deprive plaintiff of her  
7 constitutional rights to be secure in her property under the Fourth Amendment.

8           50. By these actions as described herein, defendants, acting under color of statute,  
9 ordinance, regulation, custom, or usage, deprived plaintiff of rights, privileges, or immunities  
10 secured by the Constitution and laws, namely, plaintiff's liberty interest in freedom from  
11 unreasonable seizure.

12           51. As a direct and proximate result of the actions and omissions described in this  
13 complaint, plaintiff incurred special damages for home repairs and other expenses, other  
14 economic damages, physical pain and suffering and emotional distress all to her damage in an  
15 amount to be ascertained to proof at trial. The conduct of defendant officers, and each of them,  
16 was done in reckless and conscious disregard of the pain and suffering it was bound to inflict  
17 upon plaintiff for which an award of punitive damages is mandated against each individual  
18 defendant.

19                           **THIRD CLAIM FOR RELIEF**

20                           **(Unlawful Seizure, Failure to Prevent a**

21                           **42 U.S.C. § 1983: Violation of Fourth Amendment)**

1           52.     Plaintiff realleges and incorporated by reference herein paragraphs 1 through 51  
2 with the same force and effect as if such paragraphs were separately realleged in this Third  
3 Claim for Relief.

4           53.     Defendant Renihan and Magan were aware that Fisher did not live at 3 119<sup>th</sup> Dr.  
5 Se in Lake Stevens and they were aware they Nancy Gill, had purchased the property in May of  
6 2017 prior to serving the search warrant on plaintiff's home. They were also aware that Nancy  
7 Gill was not Steven Fisher's mother and they knew that Fisher's mother had been at a storage  
8 unit earlier on the day of the search trying to clear it out. These two detectives also failed to tell  
9 the magistrate that about what they found during the search of Fisher's car the night before  
10 which indicated that he kept all of his impersonation items in the car and in a brief case and that  
11 he was receiving his mail at a Post Office Box and not at 3 119<sup>th</sup> Dr. Se but did not share this  
12 information with the judge or the members of the entry team.

13           54.     By these actions as described herein, defendants, acting under color of statute,  
14 ordinance, regulation, custom, or usage, deprived plaintiff of rights, privileges, or immunities  
15 secured by the Constitution and laws, namely, plaintiff's liberty interest in freedom from  
16 unreasonable seizure.

17           55.     As a direct and proximate result of the actions and omissions described in this  
18 complaint, plaintiff incurred special damages for home repairs and other expenses, other  
19 economic damages, physical pain and suffering and emotional distress all to her damage in an  
20 amount to be ascertained to proof at trial. The conduct of defendant officers, and each of them,  
21 was done in reckless and conscious disregard of the pain and suffering it was bound to inflict  
22 upon plaintiff for which an award of punitive damages is mandated against each individual  
23 defendant.

**FOURTH CLAIM FOR RELIEF**

**(42 U.S.C. § 1983 - Monell Claim – City of Seattle)**

56. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 55 with the same force and effect as if such paragraphs were separately realleged in this Fourth Claim for Relief.

57. At all times herein mentioned, the City of Seattle had a mandatory duty of care to properly and adequately hire, train, retain, supervise, and discipline its police officers so as to avoid unreasonable risk of harm to citizens.

58. With deliberate indifference, the City of Seattle failed to take necessary, proper, or adequate measures in order to prevent the violation of plaintiff's rights. The officers whose conduct is described above do not know what constitutes probable cause to search and arrest a person because of inadequate training or tacit approval of said conduct by the Seattle Police Department and tolerance by the department of Fourth Amendment violations.

59. The lack of correct discipline and failure to properly train and correct have exposed those who are in compliance with the law to unreasonable searches and arrests.

60. The need to train officers in the constitutional limitations on the search and seizure of citizens and the amount of force to apply when doing so can be said to be "so obvious" that the failure to do so could properly be characterized as "deliberate indifference" to constitutional rights. The result is the continuous unreasonable and unnecessary deprivation of a citizen's rights. Such conduct on the part of defendant City of Seattle renders it liable for its officers' constitutional violations.

1           61. As a direct and proximate result of the foresaid acts, omissions, policies, customs,  
2 and ratification of defendant City of Seattle, the individual defendant officers caused the  
3 constitutional violations and damages described above.

4                                   **FIFTH CLAIM FOR RELIEF**

5   **(Negligence)**

6           62. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 61  
7 with the same force and effect as if such paragraphs were separately realleged in this Fifth Claim  
8 for Relief.

9           63. The acts of defendants as described above constituted negligence in the use and  
10 deployment of a search warrant in the circumstances of this case. Defendants were negligent in  
11 failing to recognize that neither Mr. Fisher, nor any of his family members lived at plaintiff's  
12 address and that plaintiff was not the target or the object of the search warrant. Defendants  
13 directly caused harm to plaintiff by their negligent conduct.

14           64. As a direct and proximate result of each defendants' negligent conduct, plaintiff  
15 sustained economic and non-economic damages, including, without limitation, mental suffering,  
16 embarrassment, emotional distress, emotional trauma, and other mental pain and suffering, and  
17 other damages, to be proven at trial.

18                                   **SIXTH CLAIM FOR RELIEF**

19   **(False Arrest)**

20           65. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 64  
21 with the same force and effect as if such paragraphs were separately realleged in this Sixth Claim  
22 for Relief.

1           66.     The conduct of defendant officers in detaining and arresting plaintiff constitutes  
2 false imprisonment of plaintiff. There was no probable cause for the arrest.

3           67.     Plaintiff was the second owner of the house after Mr. Fisher. It had been months  
4 since Mr. Fisher had lived in the house and he was arrested three days prior to the search and  
5 arrest. The warrant used to search plaintiff's home targeted Mr. Fisher, yet the officers did not  
6 stop the search when they saw plaintiff was the homeowner.

7           68.     The actions of defendants in arresting plaintiff without probable cause constitutes  
8 false imprisonment.

9           69.     As a direct and proximate result of defendant officers' intentional conduct,  
10 plaintiff sustained economic and non-economic damages, including, without limitation, mental  
11 suffering, emotional distress, emotional trauma, physical pain and suffering, and other mental  
12 pain and suffering; and other damages, which will be proven at trial.

13                               **SEVENTH CLAIM FOR RELIEF**

14                                       **(Unlawful Search)**

15           70.     Plaintiff realleges and incorporated by reference herein paragraphs 1 through 69  
16 with the same force and effect as if such paragraphs were separately realleged in this Seventh  
17 Claim for Relief.

18           71.     The actions of all defendant officers in searching plaintiff's home deprived her of  
19 her right to be free from unlawful search.

20           72.     The direct and proximate result of each defendant's acts is that plaintiff suffered  
21 economic losses and mental suffering and emotional distress.

22                               **EIGHT CLAIM FOR RELIEF**

23                                       **(Trespass)**

73. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 72 with the same force and effect as if such paragraphs were separately realleged in this Eighth Claim for Relief.

74. The actions of defendants and each of them in entering plaintiff's home without her permission or consent constitute trespassing and a contributing factor to her emotional distress damages.

75. As a direct and proximate result of defendants' trespass, plaintiff sustained economic and non-economic damages, including, without limitation, mental suffering, emotional distress, emotional trauma, physical pain and suffering, and other mental pain and suffering; and other damages, which will be proven at trial.

#### **NINTH CLAIM FOR RELIEF**

##### **(Battery)**

76. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 75 with the same force and effect as if such paragraphs were separately realleged in this Ninth Claim for Relief.

77. Defendants Magan and Gonzalez acted with the intent to cause, and did in fact, cause offensive contact with plaintiff by grabbing plaintiff and handcuffing her behind her back.

78. All defendants are liable for said conduct under both vicarious liability and on an agency relationship.

79. At no time did plaintiff consent or acquiesce to any of defendants' acts alleged above.

80. As a direct and proximate result of defendant officers' intentional conduct, plaintiff sustained economic and non-economic damages, including, without limitation mental suffering, embarrassment, emotional distress, emotional trauma, and other mental pain and suffering; and other damages, which will be proven at trial.

## TENTH CLAIM FOR RELIEF

**(Respondent Superior – City of Seattle)**

81. Plaintiff realleges and incorporated by reference herein paragraphs 1 through 80 with the same force and effect as if such paragraphs were separately realleged in this Tenth Claim for Relief.

82. In doing the things herein alleged, defendant officers were acting within the course and scope of their employment with the City of Seattle. The City of Seattle is therefore liable for the conduct of the defendant officers.

## PRAAYER

WHEREFORE, plaintiff respectfully prays that this Court enter judgment against defendants, granting plaintiff:

- A. A money judgment against each defendant in an amount which will fully compensate her for her economic losses, injuries, other losses, harm and damages sustained in this matter;
- B. That the Court award plaintiff her costs, including reasonable and statutory attorney fees incurred in this matter, as provided by law; and
- C. Such further relief as this Court deems appropriate.



1 DATED this 12th day of March, 2020.

2 CIVIL RIGHTS JUSTICE CENTER, PLLC

3 /s/ Darryl Parker

4 **Darryl Parker**, WSBA #30770

5 Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I, Jordon Henderson, under penalty of perjury under the laws of the State of Washington declare as follows:

I am a legal assistant at the Civil Rights Justice Center, PLLC, and am over the age of 18. On the date and in the manner indicated below, I caused the foregoing AMENDED COMPLAINT FOR DAMAGES and this CERTIFICATE OF SERVICE to be served on:

Susan Park, WSBA 353857  
Ghazal Sharifi, WSBA #47750  
Assistant City Attorney  
Seattle City Attorney's Office  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104  
(206) 684-8217  
Susan.park@seattle.gov  
Ghazal.sharifi@seattle.gov

☐ via legal messenger  
☐ via first class mail  
☐ via facsimile  
☒ via email

DATED this 12th day of March, 2020 at Seattle, Washington.

/s/ Jordon Henderson

**Jordon Henderson, Legal Assistant**